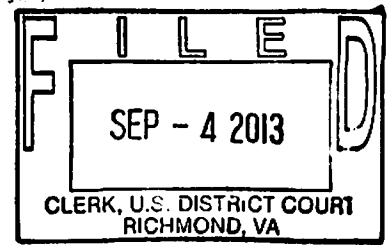


**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division**



JAMES W. HAWKINS, JR.,

Plaintiff,

v.

Civil Action No. 3:13CV156

JUDGE THOMAS PADRICK, et al.,

Defendants.

MEMORANDUM OPINION

James W. Hawkins, Jr., a Virginia prisoner proceeding *pro se*, filed this civil action. By Memorandum Opinion and Order entered on July 18, 2013, this Court dismissed the action without prejudice because Hawkins failed to return a consent to collection of fees form and did not pay the statutory filing fee within the time required by the Memorandum Order entered May 2, 2013.

On July 24, 2013, the Court received from Hawkins a letter that the Court construes as a motion filed pursuant to Fed. R. Civ. P. Rule 59(e) ("Rule 59(e) Motion") (ECF No. 7), *see MLC Auto., LLC v. Town of Southern Pines*, 532 F.3d 269, 277–78 (4th Cir. 2008) (citing *Dove v. CODESCO*, 569 F.2d 807, 809 (4th Cir. 1978)), and an executed consent to collection of fees form. (ECF No. 8.) While it is unclear whether Hawkins had received the Court's July 18, 2013 Memorandum Opinion and Order at the time he filed the instant motion, he returns a consent to collection of fees form and explains why he failed to timely file the form.¹

The United States Court of Appeals for the Fourth Circuit has recognized three grounds for relief under Rule 59(e): "(1) to accommodate an intervening change in controlling law; (2) to

¹ On August 5, 2013, the Court received a letter from Hawkins with a copy of the Court's July 18, 2013 Memorandum Opinion and Order attached. (ECF No 10.)

account for new evidence not available at trial; or (3) to correct a clear error of law or prevent manifest injustice.” *Hutchinson v. Staton*, 994 F.2d 1076, 1081 (4th Cir. 1993) (citing *Weyerhaeuser Corp. v. Koppers Co.*, 771 F. Supp. 1406, 1419 (D. Md. 1991); *Atkins v. Marathon LeTourneau Co.*, 130 F.R.D. 625, 626 (S.D. Miss. 1990)). Hawkins explains that the Virginia Beach Correctional Center “discarded all documents filed by this complaint to Courts during a shakedown,” (Rule 59(e) Mot. 1 (capitalization corrected)), and believes “that [his] paperwork is being tampered with.” (ECF No. 10, at 1.) Hawkins contends that he has returned the consent to collection of fees form to the Court three times. (ECF No. 9, at 1.) As Hawkins alleges that he complied with the Court’s directives, and in order to prevent manifest injustice, Hawkins’s Rule 59(e) Motion (ECF No. 7) will be GRANTED. The July 18, 2013 Memorandum Opinion and Order will be VACATED. The Court will continue to process Hawkins’s civil action.

An appropriate Order will accompany this Memorandum Opinion.

Date: 9-3-13
Richmond, Virginia

/s/
James R. Spencer
United States District Judge